

The Honorable Franklin D. Burgess

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICHAEL BRANNAN, Individually, as
Administrator of the estate of BARBARA
BRANNAN, Deceased, and as Parent and
Natural Guardian for his minor children S.B.
and R.B.,

Plaintiffs,

v.

NORTHWEST PERMANENTE, P.C.;
KAISER FOUNDATION HEALTH PLAN OF
THE NORTHWEST; MINDY ROTHBARD,
M.D.; and MIKE G. LIN, M.D.,

Defendants.

NO. C05 05157 FDB

DECLARATION OF JACK A.
MEYERSON IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO
AMEND COMPLAINT

Noted: July 26, 2006

JACK A. MEYERSON declares under penalty of perjury pursuant to the laws of the
State of Washington as follows:

1 Identity and Competency. I am a lawyer with Meyerson & O'Neill and am one of
the lawyers responsible for this litigation. I have personal knowledge of the facts set forth below
and am competent to testify.

DECLARATION OF JACK A. MEYERSON IN SUPPORT OF
PLAINTIFFS' RESPONSE TO DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO AMEND COMPLAINT - 1
No. C05 05157 FDB

GORDON MURRAY TILDEN LLP
1001 Fourth Avenue, Suite 4000
Seattle, WA 98154
Phone (206) 467-6477
Fax (206) 467-6292

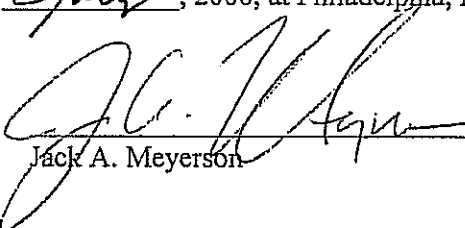
1 2. Your Affiant, trial counsel for plaintiffs drafted the proposed Third Amended
2
3 Complaint. The purpose of the Amended Complaint is to clarify what will and what will not be
4
5 part of plaintiffs' claims for negligence and presentation at trial. Specifically, after the
6
7 completion of discovery to date, plaintiffs determined that the fact that the prescription at issue
8
9 for amphetamine salts, was for an "off-label" use and in a generic form did not cause plaintiffs'
10
11 death. Rather the negligence that caused plaintiff's death is the fact that the doctors at Kaiser
12
13 Permanente missed available information in the decedent's medical history to the effect that she
14
15 suffered from myocardial fibrosis and a defect in her heart conduction system. Both of these
16
17 medical conditions made the prescription of amphetamine salts inappropriate and dangerous.

18
19 3. The manner in which the amphetamine salts were prescribed was equally
20
21 irresponsible. Specifically, as pled in the proposed Amended Complaint, Dr. Rothbard at the
22
23 time she prescribed the medication did not familiarize herself with the patient's medical history,
24
25 was unaware of her heart conduction defect and did not undertake a blood pressure reading much
26
27 less conduct a cardiovascular examination. Then, Dr. Rothbard greatly increased the dosage and
28
29 quantity of amphetamine salts, to a three-month supply based solely on a telephone conversation.
30
31 She did not interview the decedent personally nor take any medical readings to see how she was
32
33 doing and the effect the amphetamine was having on her system.

34
35 4. The argument that the proposed complaint references "Kaiser Permanente" which
36
37 somehow prejudices the defendants is specious. The currently pending complaint (Exhibit "A"
38
39 to Plaintiffs' Response to Defendants' Response to Plaintiffs' Motion to Amend Complaint)
40
41 repeatedly mentions "Kaiser Permanente". Kaiser Permanente is the name of the defendants'
42
43 business, it is how they were known by decedent and that is how they are known by the public
44
45 and it is how they publicize themselves on their website.

1 I declare under penalty of perjury pursuant to the laws of the State of Washington that the
2
3 foregoing is true and correct.
4

5 DATED this 25 day of July, 2006, at Philadelphia, Pennsylvania.
6

7
8
9
10 
11 Jack A. Meyerson
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

() Mail () Hand Delivery
(X) Fax () Federal Express

GORDON MURRAY TILDEN LLP

By /s/
Jeffrey I. Tilden, WSBA #12219
Attorneys for Plaintiff
1001 Fourth Avenue, Suite 4000
Seattle, WA 98154-1007
Telephone: (206) 467-6477
Facsimile: (206) 467-6292
Email: jtilden@gmtlaw.com